

REMARKS

In the above-noted Official Action, claims 1-22 were rejected under 35 U.S.C. §103(a) over DONAGHUE, JR. (U.S. Patent No. 6,256,381) in view of LOZINSKI et al. (U.S. Patent No. 6,055,306). Claims 1, 6-7, 14 and 19 were rejected under 35 U.S.C. §102(b) over JONSSON (U.S. Patent No. 6,208,856). Claims 1, 6-7, 14 and 19 were rejected under 35 U.S.C. §103(a) over DONAGHUE, JR. (U.S. Patent No. 6,256,381). Claims 1, 6-7, 14 and 19 were rejected based upon the Examiner's taking of "Official Notice" as to the entirety of the claims.

Initially, Applicant would like to thank the Examiner for withdrawing each of the previous rejections set forth in the previous Official Actions.

Applicant traverses each of the new rejections. As explained herein, none of the references applied in the Official Action discloses, suggests or renders obvious the combinations of features recited in Applicant's pending claims. Further, the taking of "Official Notice" as to the entirety of claims 1, 6-7, 14 and 19 is improper, at least because the combinations of features recited in Applicant's claims are not "well-known, or... common knowledge in the art... capable of instant and unquestionable demonstration as being well known" as required for Official Notice to be properly taken (see Manual of Patent Examining Procedure at 2144.03).

Applicant's exemplary claim 1 is directed to a "first intelligent peripheral" that

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includes "a receiver that receives a call from the calling party... a determiner that determines whether to contact a second intelligent peripheral based on... interaction with the calling party... and a call initiator that establishes a call connection with the second intelligent peripheral so that the second intelligent peripheral interacts with at least one of the calling party and the first intelligent peripheral to provide the telecommunications service". Applicant's exemplary claim 7 recites a method performed by an intelligent peripheral such as the first intelligent peripheral recited in claim 1. Applicant's exemplary claim 14 recites a computer readable medium that stores a program for performing a method, such as the method recited in claim 7, using an intelligent peripheral such as the first intelligent peripheral recited in claim 1.

Applicant's exemplary claim 6 recites a "telecommunications system... comprising... a first intelligent peripheral that receives a call from a calling party... and a second intelligent peripheral, the first intelligent peripheral interacting with the calling party and determining whether to contact the second intelligent peripheral based on the interaction with the calling party, the first intelligent peripheral establishing a call connection with the second intelligent peripheral so that the second intelligent peripheral can interact with at least one of the calling party and the first intelligent peripheral to provide the telecommunications service". Applicant's exemplary claim 19 recites a computer readable medium that stores a program for performing a method using an

intelligent peripheral such as a method performed by the second intelligent peripheral recited in claim 6.

Applicant traverses the rejection of claims 1-22 under 35 U.S.C. §103(a) over DONAGHUE, JR. (U.S. Patent No. 6,256,381) in view of LOZINSKI et al. (U.S. Patent No. 6,055,306). In this regard, DONAGHUE discloses at col. 5 that the call center 22 includes call servers which may be human call agents or automatic response units. The applied teachings of DONAGHUE further disclose that a call server in a call center includes a telephone 30 and a workstation 32, neither of which is a component of an "intelligent peripheral". Rather, these features would be and are provided for use by a human call agent in DONAGHUE, as would be recognized by one of ordinary skill in the art. Substantially the entirety of DONAGHUE is directed to the call server (human call agent) using the telephone 30 and the workstation 32.

Accordingly, while DONAGHUE discloses that a call server may be an automatic response unit, the configuration and use of an automatic response unit is not detailed in the teachings relied-upon in the Official Action. Rather, the relied-upon teachings of DONAGHUE are directed to functionality provided by a human call agent using a telephone 30 and a workstation 32, which are not elements of an "intelligent peripheral".

Further, DONAGHUE discloses at col. 7, lines 11-13 (not applied in the Official Action), that a telephone 30 of the first call center 22 may establish a conference call and

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remain a party after a transfer is complete. However, a telephone 30 would be used by a human call agent, e.g., to verify that a call transfer was completed (though the purpose for the human call agent to remain a party to a call after a transfer is complete is not detailed in any way in DONAGHUE), and is not a component of an "intelligent peripheral".

Accordingly, neither a human call agent, a telephone 30 or a workstation 32, nor any combination of the three, is a "first intelligent peripheral" that includes such a "determiner" or "call initiator" as recited in claim 1. Further, DONAGHUE does not disclose that an automatic response unit includes such features. Accordingly, DONAGHUE does not disclose at least the above-noted features recited in claim 1, nor the features of the related method recited in claim 7 or the related computer readable medium recited in claim 14.

Moreover, neither a human call agent, a telephone 30 or a workstation 32, nor any combination of the three, is a "first intelligent peripheral" or a "second intelligent peripheral" as recited in claim 6. Further, DONAGHUE does not disclose that an automatic response unit includes such features. Accordingly, DONAGHUE does not disclose at least the above-noted features recited in claim 6, nor the features of the related computer readable medium recited in claim 19.

In any case, the Official Action acknowledges, at page 3, that DONAGHUE "does not specifically teach the use of an intelligent peripheral". Insofar as the combination of

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features recited in Applicant's independent claims 1, 6, 7, 14 and 19 are features relating to the claimed "first intelligent peripheral" and/or "second intelligent peripheral", and insofar as each of Applicant's remaining independent claims includes features of an "intelligent peripheral", this acknowledgement in the Official Action would appear to render moot the entirety of the rejection over DONAGHUE in view of LOZINSKI.

In other words, given that the Official Action acknowledges that DONAGHUE does not "specifically teach" an intelligent peripheral(s) as recited in each of Applicant's independent claims, it would appear that an intelligent peripheral would have to be provided to DONAGHUE in order for DONAGHUE to disclose or suggest the combination of features recited in Applicant's independent claims. Therefore, it appears that the Official Action is itself acknowledging that DONAGHUE is not related to substantially the entirety of Applicant's independent claims.

Applicant further notes that LOZINSKI is applied for the limited teaching of a "voice response unit 14... that plays messages and performs interaction sessions with callers". However, modification of DONAGHUE with such a voice response unit would not obtain the combination of features recited in claim 1. In this regard, simple replacement of the telephone 30 and workstation 32 in DONAGHUE with a voice response unit in LOZINSKI would not provide the features of intelligent peripherals as set forth above and as recited in Applicant's independent claims. Rather, simply replacing

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the human call agent, the telephone 30 and the workstation 32 in DONAGHUE with a voice response unit in LOZINSKI would not result in the intelligent peripherals as recited in Applicant's independent claims.

Accordingly, neither DONAGHUE or LOZINSKI, whether considered alone or in any proper combination, discloses or suggests the intelligent peripherals as recited in Applicant's independent claims. Therefore, each of the above-noted independent claims is allowable over DONAGHUE and LOZINSKI , at least for the numerous reasons set forth above. Applicant further submits that each of claims 2-5, 8-13, 15-18 and 20-22 are allowable at least for depending, directly or indirectly, from an allowable independent claim, as well as for additional reasons related to their own recitations.

Applicant traverses the rejection of claims 1, 6-7, 14 and 19 under 35 U.S.C. §102(b) over JONSSON (U.S. Patent No. 6,208,856). In this regard, JONSSON is directed to routing a “call to a preferred service node” and, “[i]f the preferred service node experiences a failure or is otherwise not operational, and does not respond to such a call,” rerouting the “call to a standby service node” (See the Abstract). Further, as shown in FIG. 1 and described at col. 3, the service nodes 102 and 103 are each connected with “signaling connection lines 111 and 112” to a maintenance server 110 and with “communication lines 108 and 109” to a public switch 106. However, neither of the service nodes 102 and 103 is disclosed to initiate a call to the other. In particular, neither

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of the service nodes 102 and 103 includes the features of Applicant's independent claims as set forth above with respect to the rejection over DONAGHUE. Rather, “[i]n the event service node 102 does not reply to a call setup attempt, public switch 106 reroutes the call to the second (e.g., standby) service node 103” (See col. 3, lines 24-53). Accordingly, JONSSON does not disclose, suggest or render obvious the combination of features recited in Applicant's independent claims.

In particular, JONSSON does not disclose or suggest the features of a "first intelligent peripheral" as recited in Applicant's claim 1, or the related method recited in claim 7 or computer readable medium recited in claim 14. Further, JONSSON does not disclose or suggest the features of a "first intelligent peripheral" or "second intelligent peripheral" as recited in Applicant's claim 6, or the related computer readable medium recited in claim 19.

Applicant traverses the rejection of claims 1, 6-7, 14 and 19 over DONAGHUE. In this regard, Applicant has already addressed the shortcomings of DONAGHUE with respect to the features of Applicant's independent claims. Accordingly, Applicant submits that each independent claim is allowable for each of the reasons set forth above in traverse of the rejection of claims 1-22 under 35 U.S.C. §103(a) over DONAGHUE in view of LOZINSKI.

Applicant traverses the rejection of claims 1, 6-7, 14 and 19 based upon the

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Examiner's taking of "Official Notice" as to the entirety of the claims. The above-noted taking of "Official Notice" is improper. As set forth in the Manual of Patent Examining Procedure at 2144.03, "Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known". However, the failure of each of the references applied in the Official Action to disclose, suggest or render obvious the features recited in Applicant's claims is evidence itself that these features are not "well-known" or "common knowledge in the art... capable of instant and unquestionable demonstration as being well-known". Accordingly, the taking of Official Notice is improper in the outstanding Final Official Action.

In this regard, the rejection based on the taking of Official Notice is based upon the mischaracterization of Applicant's claims, and does not reflect true and proper consideration of the combination of features recited therein. For example, although Applicant's claims do not recite "transferring a call from a first ACD to a second ACD after the first ACD" or that a "VRU/IP may decide to transfer the call to another department served by the second ACD" (emphasis added), the rejection is based upon the Examiner's irrelevant (and unsupported) assertions that such features are "Old and Well-Known" in the art. Accordingly, insofar as the rejection of claims 1, 6-7, 14 and 19 on

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this basis is not based upon consideration of the features recited in Applicant's claims, Applicant requests that the Examiner consider the combination of features recited in Applicant's claims, and base any future rejection of Applicant's claims upon consideration of these features.

Furthermore, the taking of "Official Notice" is improper, insofar as no reference or proper combination of references discloses, suggests or renders obvious the combinations of features recited in Applicant's claims. Further, the failure of any references to disclose, suggest or render obvious the combinations recited in Applicant's claims is evidenced by the failure of each of the numerous references applied during the prosecution of the present claims to disclose, suggest or render obvious the combinations of features recited therein. Accordingly, if the rejection of claims 1, 6-7, 14 and 19 based upon the Examiner's taking of "Official Notice" as to the entirety of the claims is maintained, the Examiner is respectfully requested to provide a reference or proper combination of references that supports such a rejection. In the absence of any such teachings in the prior art, the rejection on this basis is improper and should be withdrawn.

SUMMARY AND CONCLUSION

Applicant has made a sincere effort to place the present application in condition for allowance, and believes that this has now been done. Applicant has discussed the features recited in Applicant's claims, and has shown how the combination of features recited in Applicant's claims are not taught, disclosed nor rendered obvious by the references cited by the Examiner. Accordingly, reconsideration and withdrawal of the outstanding rejections, as well as an indication of the allowance of each of the pending claims, is respectfully requested.

Should the Examiner have any questions, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Respectfully submitted,
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